

Examinations/Trials and Appeals

第1章 審査・審判

1 Patents

The JPO has been aiming to achieve the “world’s fastest and utmost quality patent examinations”, so that once applicants obtain patents in Japan, the associated examination results will be upheld overseas to facilitate the smooth acquisition of rights abroad. To this end, the JPO has been implementing various measures focused on “maintaining speed”, “granting high quality rights”, and “cooperating and collaborating with foreign IP offices”.

1) Examination Performance

With the acceleration of the intellectual property creation cycle, comprised of intellectual property creation, the establishment of rights, and utilization of rights, there is a growing need to shorten total pendency, and the JPO has been engaging in initiatives to speed up examinations.

2) Initiatives to Speed up Examinations

(i) Securing the Necessary Number of Examiners

In order to maintain and strengthen the patent examination system, the JPO is working to secure the necessary number of patent examiners, including fixed-term examiners.

- For FY2020, the JPO secured a capacity of 1,666 examiners (including fixed-term examiners).

(ii) Outsourcing Prior Art Searches

By outsourcing prior art searches to registered search organizations, the JPO promotes the speeding up of examinations and improves examination quality through utilization of the private sector.

- As of December 2020, there were 9 registered search organizations.
- In FY2020, the number of outsourced searches was approx. 140 thousand, covering not only patent documents in Japanese, but also those in English (103 thousand cases), in Chinese and Korean (38 thousand cases in total) and in German (3.2 thousand cases).

1 特許

特許庁は、我が国で特許を取得すれば、その審査結果が海外でも通用して、海外でも権利を速やかに取れるような「世界最速・最高品質の特許審査」の実現を目指している。そして、この「世界最速・最高品質の特許審査」を実現するため、「迅速性の堅持」、「質の高い権利の付与」、「海外特許庁との連携・協力」を柱とする種々の取組を実施している。

1) 審査実績

知的創造、権利設定、権利活用の知的創造サイクルを加速する上で、権利化までの期間の短縮へのニーズが高まってきており、審査の迅速化に取り組んでいる。

2) 審査の迅速化に関する取組

(i) 審査官の確保

特許審査体制の整備・強化のため、任期付審査官を含め、必要な審査官の確保に努めている。

- 2020年度は、審査官1,666名（任期付審査官を含む。）の定員を確保。

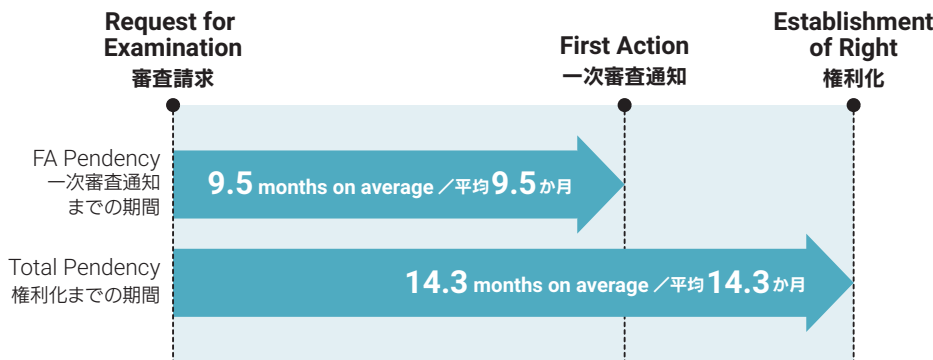
(ii) 先行技術文献調査の外注

審査官が行う先行技術文献調査を登録調査機関へ外注し、民間活力の利用による審査の迅速化と品質向上を図っている。

- 登録調査機関の数は、2020年12月現在で9機関。
- 2020年度の発注件数は、約14.0万件であり、日本語特許文献に加え、英語特許文献（10.3万件）、中国語及び韓国語特許文献（3.8万件）、独語特許文献（3.2千件）も調査対象。

Figure 2-1-1 | 2-1-1 図

FA Pendency and Total Pendency for Patent Examinations in FY2019
2019年度における特許審査のFA期間及び権利化までの期間



Note: • The first action pendency (FA pendency) is the period from the date of examination request until the JPO sends the first notice of examination results to the applicant, etc. (for the most part, either a notice of patent grant or a notice of reasons for refusal).
• The total pendency (also called the “standard pendency”) is the period from the date of examination request to withdrawal or abandonment or until a final disposition (excluding cases where the JPO requests an applicant to respond to the second notice of reasons for refusal due to the amendments submitted by the applicant, and where the applicant performs procedures they are allowed to use, such as requests to the JPO for extension of the period of response and for an accelerated examination).

備考: • 一次審査通知までの期間（FA期間）は、審査請求日から審査官による審査結果の最初の通知（主に特許査定又は拒絶理由通知書）が出願人等へ発送されるまでの期間。
• 権利化までの期間（「標準審査期間」ともいう。）は、審査請求日から取下げ・放棄又は最終処分を受けるまでの期間（出願人が補正等を行うことに起因して特許庁から再度の応答を出願人に求めるような場合や、特許庁に応答期間の延長や早期の審査を求められる場合等の、出願人に認められている手続を利用した場合を除く。）。

Figure 2-1-2 | 2-1-2 図

Number of Patent Examination FAs, Number of Patents Granted, and Number of International Search Reports Established
特許審査のFA件数、特許査定件数及び国際調査報告作成件数の推移

Year / 年	2016	2017	2018	2019	2020
Number of FAs¹ FA件数 ¹	246,879	239,236	232,701	227,293	222,344
Number of Patents Granted² 特許査定件数 ²	191,032	183,919	177,852	167,945	164,846
Number of International Search Reports Established³ 国際調査報告作成件数 ³	44,321	45,948	47,934	51,666	50,338

Note: 1. The number of first actions in patent examinations is the number of first notices of examination results (for the most part, either a notice of patent grant or a notice of reasons for refusal) issued by examiners to applicants, etc.
2. The number of patents granted excludes the number of patents granted after a request for appeals against an examiner’s decision of refusal was filed (including patents granted through reconsideration by examiners before appeal proceedings).
3. The number of international search reports established is the number by year of issuance of international search reports prepared and issued by the JPO as the International Searching Authority (ISA) under the PCT (the number of international search reports includes that of “decisions of not preparing an international search report”).

備考: 1 FA件数は、審査官による審査結果の最初の通知（主に特許査定又は拒絶理由通知書）が出願人等へ発送された件数。
2 特許査定件数は、拒絶査定不服審判請求以降（前置審査を含む）の特許された案件は含まれない件数。
3 国際調査報告作成件数は、PCTの国際調査機関として日本国特許庁が作成・発送した国際調査報告の発送年別件数（国際調査報告には、「国際調査報告を作成しない決定」が含まれる。）。

3) Accelerated Examination System/ Super-accelerated Examination System

Under certain conditions, the JPO offers an accelerated examination system/super-accelerated examination system that, upon the request of an applicant, expedites the commencement of an examination. [Figure 2-1-3]

(i) Accelerated Examination System

- The accelerated examination system for patent applications may be applied for applications that are also filed in one or more other countries and applications by small and medium-sized enterprises, etc. For more details, please visit the JPO website*1.
- In 2020, first action pendency from request for accelerated examination was 2.7 months on average.

(ii) Super-accelerated Examination System

- The JPO is running pilot programs for a super-accelerated examination system for highly important applications, such as applications for inventions that have already been put into practice and that are also filed in one or more other countries.
- First action is issued within one month from the request, in principle (within two months, in principle, in the case of DO*2 applications). For more details, please visit the JPO website*3.
- In 2020, there were 1,196 requests, and first action pendency from request for super-accelerated examination was 0.9 months on average (1.5 months for DO applications).

3) 早期審査・スーパー早期審査

一定の要件の下で、出願人からの申出を受けて審査の着手時期を通常に比べて早める早期審査・スーパー早期審査を実施している。[2-1-3図]

(i) 早期審査

- 特許出願に関する早期審査の対象は、外国にも出願している出願、中小企業等の出願等。更なる詳細については、特許庁ウェブサイト*1を参照。
- 2020年の、早期審査の申出から一次審査通知までの期間は平均2.7か月。

(ii) スーパー早期審査

- 既に実施している発明に係る出願かつ外国にも出願している出願等である、より重要度の高い出願を対象としてスーパー早期審査を試行。
- 申請から原則1か月以内（DO*2出願については原則2か月以内）に一次審査結果を通知。更なる詳細については、特許庁ウェブサイト*3を参照。
- 2020年は1,196件の申請があり、スーパー早期審査の申出から一次審査通知までの期間は平均0.9か月（DO出願については平均1.5か月）。

*1  English
<https://www.jpo.go.jp/e/system/patent/shinsa/jp-soki/index.html>

 日本語
<https://www.jpo.go.jp/system/patent/shinsa/soki/v3souki.html>

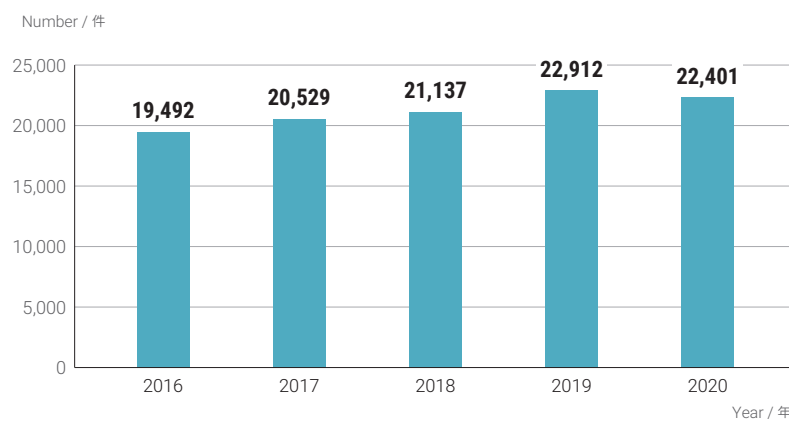
*2 Applications that have entered the national phase after international application.
国際出願後、国内段階に移行した出願。

*3  日本語
<https://www.jpo.go.jp/system/laws/rule/guideline/patent/document/index/supersoukisinsa.pdf>

Figure 2-1-3 | 2-1-3 図

Number of Requests for Accelerated Examinations for Patent

特許早期審査の申出件数の推移



Note: The number of requests for accelerated examinations is the number of "Written Explanation of Circumstances Concerning Accelerated Examination" that were submitted.

備考: 早期審査の申出件数は、「早期審査に関する事情説明書」が提出された件数。

4) Quality Management Initiatives

Under the “Quality Policy on Patent Examination”, which constitutes the JPO’s fundamental principles of quality management, and the “Quality Management Manual for Patent Examination” (Quality Management Manual), the JPO has been engaging in the following initiatives in order to realize the utmost quality of patent examinations in the world. For more details, please visit the JPO website*4.

(i) Quality Assurance

- Before sending applicants and agents documents by examiners regarding notices and decisions, etc., managers in the examination office check substantive and formal aspects of such documents for all cases.
- Examiners consult with other examiners in order to share search know-how and knowledge, etc., in order to curb search and decision discrepancies among examiners.

(ii) Quality Verification

- Decisions and notices, etc. prepared by examiners are audited by quality management officers to check compliance and validity in terms of content and format before sending official documents to applicants and agents.
- In order to ascertain various user needs, the JPO conducts interviews at informal meetings with businesses, accepts information provided in relation to individual cases, and user satisfaction surveys. [Figure 2-1-4]
- In August 2014, the JPO established the Subcommittee on Examination Quality Management, which consists of external experts, under the Intellectual Property Committee of the Industrial Structure Council of the Ministry of Economy, Trade and Industry, and has been implementing initiatives in the quality management of patent examination, based on reports by the subcommittee.

4) 品質管理に関する取組

品質管理の基本原則となる「特許審査に関する品質ポリシー」、「特許審査の品質管理に関するマニュアル」(品質マニュアル)の下、世界最高品質の特許審査の実現に向けて以下の取組を行っている。更なる詳細については、特許庁ウェブサイト*4を参照されたい。

(i) 品質保証

- 審査官による通知・査定等に係る書面について、出願人・代理人に発送される前に、審査室の管理職が実体面・形式面にわたり全件チェック。
- サーチノウハウ、知識等を共有化し、審査官の間のサーチや判断の相違を抑制するため、審査官は他の審査官と協議を実施。

(ii) 品質検証

- 審査官による処分等の判断及びその結果として作成される起案書の適否について、品質管理官が起案書発送前に監査を実施。
- 様々なユーザーニーズを把握するため、企業との意見交換会、個別案件に関する意見受付、ユーザー評価調査を実施。[2-1-4図]
- 2014年8月から産業構造審議会知的財産分科会の下に、外部有識者からなる審査品質管理小委員会を設置しており、当該小委員会の報告を踏まえ、特許審査の品質管理における取組を実施。

*4



English
<https://www.jpo.go.jp/e/introduction/hinshitu/shinsa/index.html>



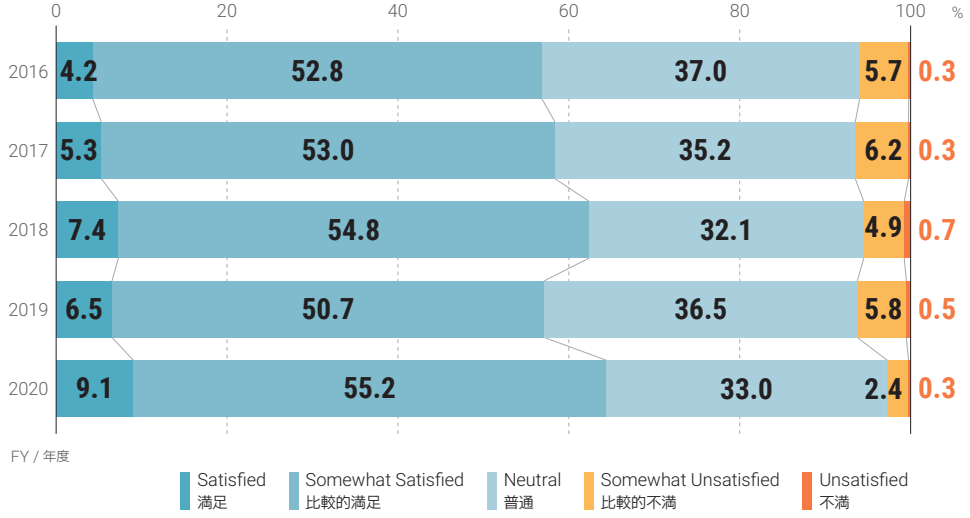
日本語
<https://www.jpo.go.jp/introduction/hinshitu/shinsa/index.html>

Figure 2-1-4 | 2-1-4 図

Results of User Satisfaction Survey on Patent Examination Quality
特許審査の質についてのユーザー評価調査の結果

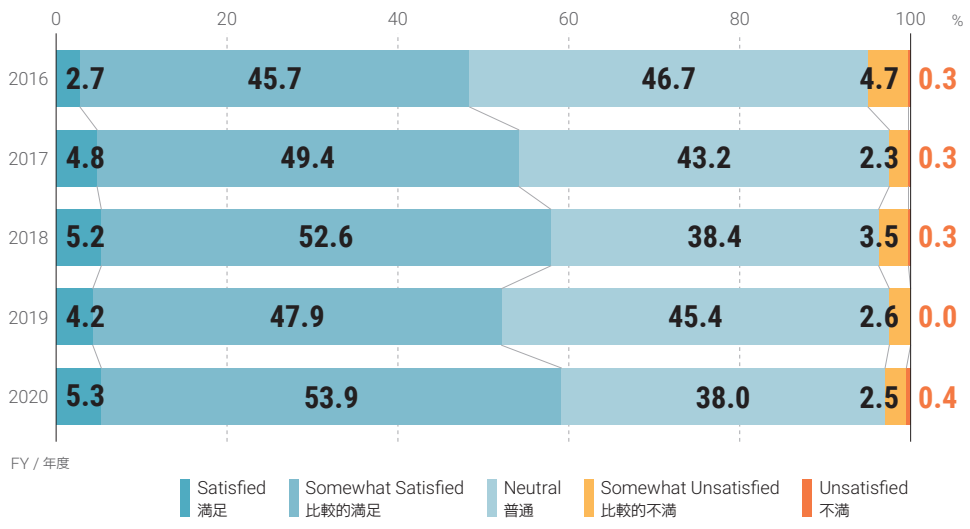
Results of User Satisfaction Survey (Overall quality of patent examination on national applications)

ユーザー評価調査の結果
(国内出願における
特許審査全般の質の評価)



Results of User Satisfaction Survey (Overall quality of the international search and international preliminary examination on PCT applications)

ユーザー評価調査の結果
(PCT 国際出願における
国際調査等全般の質の評価)



5) Revision of Examination Guidelines and Handbook

On August 27, 2019, the Supreme Court rendered a judgement*5 on how an advantageous effect of an invention should be considered in determining the inventive step. As it was the first Supreme Court decision which indicated how an unpredictable and significant effect of an invention should be determined, and has important significance in practice, discussions were held at the 15th meeting of the Working Group*6 on the Patent Examination Standards on November 20, 2020, as to whether the judgment was consistent with the current application of the Examination Guidelines. As the Supreme Court judgment was beneficial for understanding the basic ideas indicated in the "Examination Guidelines for Patent and Utility Model",*7 it was decided to be added to the "Examination Handbook for Patent and Utility Model",*8 for reference.

6) Examination Measures for Addressing Various User Needs

(i) Interview Examinations

The JPO conducts interview examinations to facilitate communication between examiners and applicants, etc.*9 In response to the needs of applicants and agents, etc. in remote areas, the JPO not only conducts interview examinations in the JPO's building, but also conducts on-site interview examinations and online interview examinations.*10 It is also possible to conduct an interview examination with some of the participants participating online.

- In 2020, there were 1,883 interview examinations (of these, 195 were conducted on-site, and 1,015 were conducted online).

(ii) Collective Examinations for IP Portfolio Supporting Business Strategy

The Collective Examinations for IP Portfolio Supporting Business Strategy is a measure that supports the acquisition of rights in time with operations of businesses by having examiners for multiple applications related to the business (patent, design, and trademark applications) coordinate with each other to conduct their respective examinations*11.

[Figure 2-1-5]

- In 2020, there were 21 applications for Collective Examinations for IP Portfolio Supporting Business Strategy.
- Of these, there were 175 patent applications, 2 applications for design registration, and 1 applications for trademark registration.

5) 審査基準・ハンドブックの改訂検討

2019年8月27日、進歩性判断における有利な効果に関する最高裁判決*5が出された。本判決は、予測できない顕著な効果の判断方法を判示した初の最高裁判決であり、実務上重要な意義を有するため、2020年11月20日に、第15回審査基準専門委員会ワーキンググループ*6にて現行の審査基準の運用と整合しているか否かについて検討した。本判決は、「特許・実用新案審査基準*7」で示された基本的な考え方を理解する上で有用なものであるため、参考情報として「特許・実用新案審査ハンドブック*8」に追加することとなった。

6) 多様なユーザーニーズに対応するための審査施策

(i) 面接審査

審査官と出願人等との間において、円滑に意思疎通を図ることを目的として、面接審査を実施している*9。遠隔地の出願人や代理人等のニーズに応え、特許庁庁舎で実施する面接審査の他、出張面接審査やオンライン面接審査*10も実施している。一部の参加者のみオンラインで参加して、面接審査を実施することも可能である。

- 2020年の実績は1,883件（内、出張面接審査195件、オンライン面接審査1,015件）。

(ii) 事業戦略対応まとめ審査

事業戦略対応まとめ審査は、事業に関連する複数の出願（特許・意匠・商標）を対象として、各分野の審査官が連携しながら審査を行い、事業展開に合わせたタイミングでの権利化を支援する施策である*11。[2-1-5図]

- 2020年における事業戦略対応まとめ審査の申請実績は21件。
- 対象とされた特許出願は175件、意匠登録出願は2件、商標登録出願は1件。

*5 "Human conjunctival mast cell stabilizer" case, judgment of the Third Petty Bench of the Supreme Court, 2019, August 27 (2018 (Gyo-Hi) No. 69).
「ヒト結膜肥満細胞安定化剤事件」最高裁判決（最三小判令和元年8月27日（平成30年（行ヒ）第69号）

*6 Working Group on the Patent Examination Standards supervised by the Patent System Subcommittee under the Intellectual Property Committee of the Industrial Structure Council
産業構造審議会知的財産分科会特許制度小委員会審査基準専門委員会ワーキンググループ

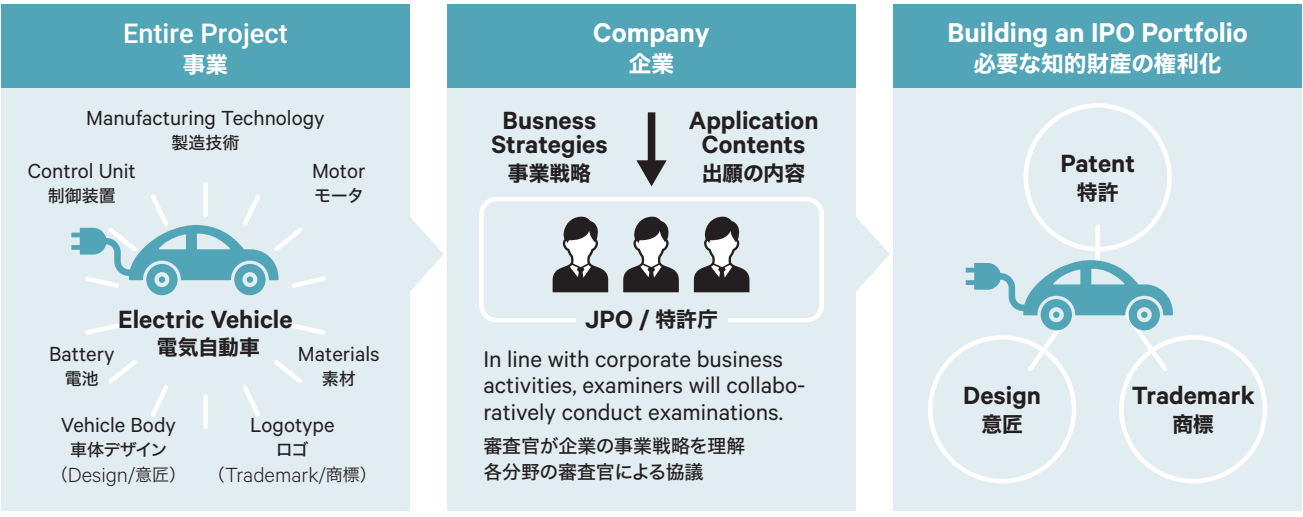


日本語

https://www.jpo.go.jp/resources/shingikai/sangyo-kouzou/shousai/kijun_wg/index.html

Figure 2-1-5 | 2-1-5 図

Collective Examinations for IP Portfolio Supporting Business Strategy
事業戦略対応まとめ審査



*7 English
https://www.jpo.go.jp/e/system/laws/rule/guideline/patent/tukujitu_kijun/

日本語
https://www.jpo.go.jp/system/laws/rule/guideline/patent/tukujitu_kijun/

*8 English
https://www.jpo.go.jp/e/system/laws/rule/guideline/patent/handbook_shinsa/index.html

日本語
https://www.jpo.go.jp/system/laws/rule/guideline/patent/handbook_shinsa/index.html

*9 English
<https://www.jpo.go.jp/e/system/patent/shinsa/junkai.html>

日本語
<https://www.jpo.go.jp/system/patent/shinsa/mensetu/junkai.html>

*10 See Part 2, Chapter 3, 4.2 "Promotion of Online Interviews."
第2部第3章第4節第2項「オンライン面接の推進」参照。

*11 English
https://www.jpo.go.jp/e/system/patent/shinsa/matome_sinsa.html

日本語
https://www.jpo.go.jp/system/patent/shinsa/general/matome_sinsa.html

8) Recent Trends in AI-related Inventions

Taking into account recent advances in AI technology centering on deep learning, the JPO has studied the status of patent applications for AI-related inventions in Japan and overseas, and updated the report and previous data in July 2020.*14 This study covered (1) inventions on AI core technologies and (2) inventions in which AI has been applied to various technical fields. An overview of the study findings is as follows.

- Domestic patent applications for AI-related inventions have increased rapidly since 2014 due to the impact of the third AI boom. [Figure 2-1-6]
- Applications for AI-related inventions referring to deep learning have increased rapidly since 2014. In 2018, nearly half of domestic patent applications for AI-related inventions related to deep learning.
- For AI-applied areas, applications stand out in the fields of image processing, information retrieval and recommendation, business-related, and control and robotics. This year's study shows a particular increase in application of AI to the field of medical diagnosis.
- Applications related to AI core technology are on the rise, both to the IP5 Offices and PCT. Among them, the number of applications to the USPTO and the CNIPA is particularly high. In particular, the number of applications to the CNIPA has continued to grow.

8) AI 関連発明の出願状況調査

近年の深層学習を中心としたAI関連技術の進展を踏まえ、特許庁はAI関連発明の特許出願について国内外の状況を調査しており、2020年7月、報告書とバックデータを更新した*14。本調査では、(1)AIのコア技術に関する発明、及び(2)AIを各技術分野に適用した発明を調査対象とした。本調査結果の概要は以下の通り。

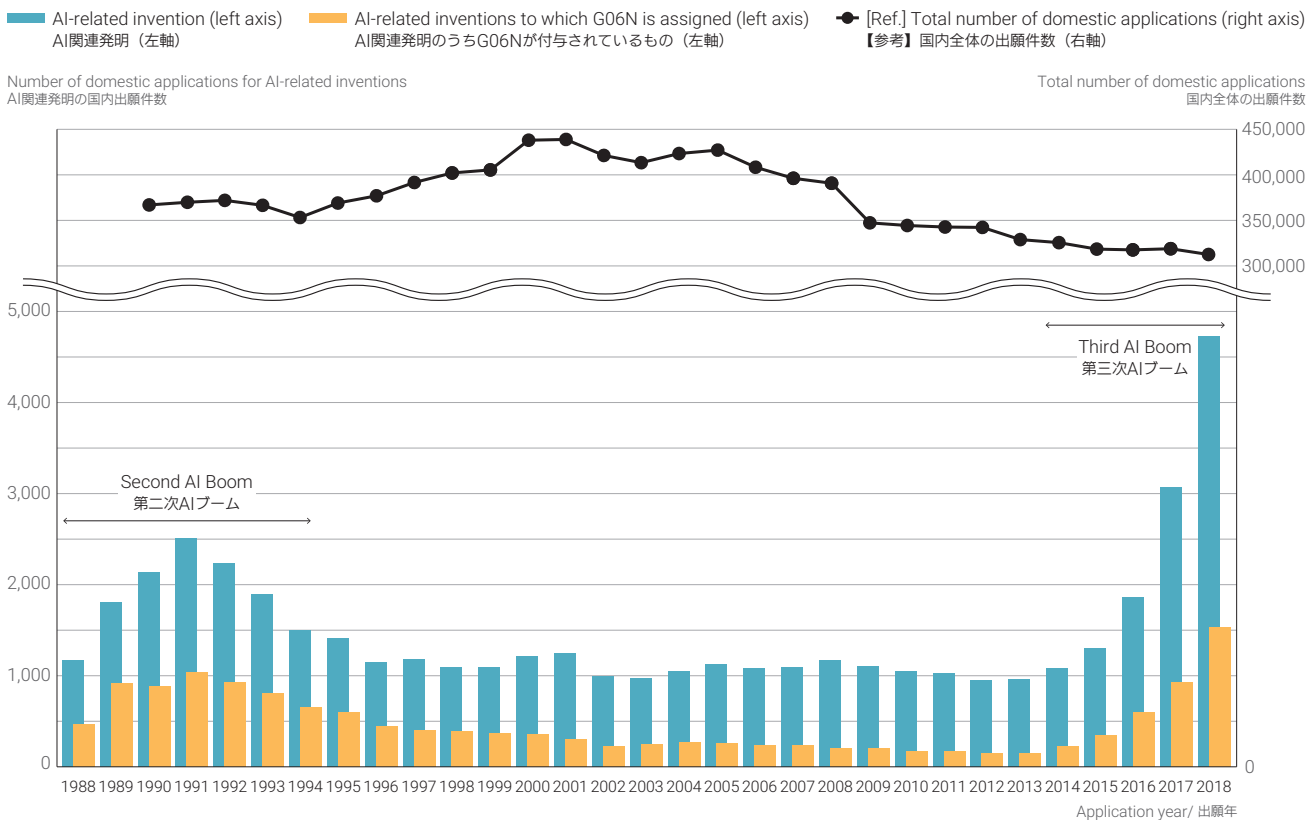
- AI関連発明の国内特許出願は、第三次AIブームの影響で2014年以降急増。[2-1-6図]
- 深層学習に関する出願は2014年以降急増しており、2018年のAI関連発明の国内特許出願の半数以上は深層学習に関するもの。
- AIの適用先として目立つ分野は、画像処理や情報検索・推薦、ビジネス関連、制御・ロボティクス。今年の調査では特に医学診断分野への適用が増加。
- AIのコア技術に関する出願は、五庁及びPCT国際出願のいずれにおいても増加傾向であり、中でもUSPTOとCNIPAへの出願件数は突出。特に中国の出願件数は引き続き増加中。

*14  日本語
https://www.jpo.go.jp/system/patent/gaiyo/sesaku/ai/ai_shutsugan_chosa.html

Figure 2-1-6 | 2-1-6 図

Number of Domestic Patent Applications for AI-related Inventions

AI 関連発明の国内特許出願件数の推移



	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
AI-related invention (left axis) AI関連発明 (左軸)	1,167	1,811	2,137	2,509	2,237	1,891	1,495	1,412	1,150	1,183	1,096	1,091	1,209	1,242
AI-related inventions to which G06N is assigned (left axis) AI関連発明のうちG06Nが付与されているもの (左軸)	467	912	881	1,032	926	807	654	599	444	403	393	363	353	297
[Ref.] Total number of domestic applications (right axis) 【参考】国内全体の出願件数 (右軸)	-	-	367,590	369,396	371,894	366,486	353,301	369,215	376,615	391,572	401,932	405,655	436,865	439,175

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
AI-related invention (left axis) AI関連発明 (左軸)	988	975	1,047	1,126	1,080	1,096	1,167	1,100	1,052	1,031	952	963	1,084	1,304	1,858	3,065	4,728
AI-related inventions to which G06N is assigned (left axis) AI関連発明のうちG06Nが付与されているもの (左軸)	229	249	266	254	235	233	208	203	174	174	151	150	221	343	595	924	1,527
[Ref.] Total number of domestic applications (right axis) 【参考】国内全体の出願件数 (右軸)	421,044	413,092	423,081	427,078	408,674	396,291	391,002	348,596	344,598	342,610	342,796	328,436	325,989	318,721	318,381	318,479	313,567

2 Designs

The JPO has been implementing a variety of initiatives including accelerated examinations and quality management, in order to appropriately protect designs, improve convenience for users, and strengthen the competitiveness of Japan's companies. It also summarizes the status concerning the revised Design Act, and engaging in sending out information outside.

1) Examination Performance

The JPO is working to make examinations more efficient for user convenience. In FY2019 (April 2019–March 2020), the JPO achieved the “first action pendency” (FA pendency) and “total pendency” periods shown in Figure 2-1-7. [Figure 2-1-7] [Figure 2-1-8]

2) Accelerated Examination

Under certain conditions, the JPO offers an accelerated examination system that, upon the request of an applicant, expedites the commencement of an examination. [Figure 2-1-9]

- The accelerated examination system may be applied under the following conditions: (i) applications for design registration related to implementations with an urgent need for registration*1; (ii) applications for design registration that are concurrently filed in one or more other countries; or (iii) applications for design registration by businesses, etc. that have suffered earthquake damage.
- In 2019, first action pendency from request for accelerated examination was 2.0 months on average.

2 意匠

特許庁では、適切な意匠の保護やユーザーの利便性向上、また我が国企業の競争力強化のため、早期審査、品質管理等、種々の取組を実施している。また、改正意匠法に関する状況をまとめ、外部への発信等に取り組んでいる。

1) 審査実績

ユーザーの利便性を念頭に審査の効率化を進めており、2019年度（2019年4月–2020年3月）は、2-1-7図の「一次審査通知までの期間」（FA期間）及び「権利化までの期間」を達成した。[2-1-7図][2-1-8図]

2) 早期審査

一定の要件の下で、出願人からの申出を受けて審査の着手時期を通常にくらべて早める早期審査制度を実施している。[2-1-9図]

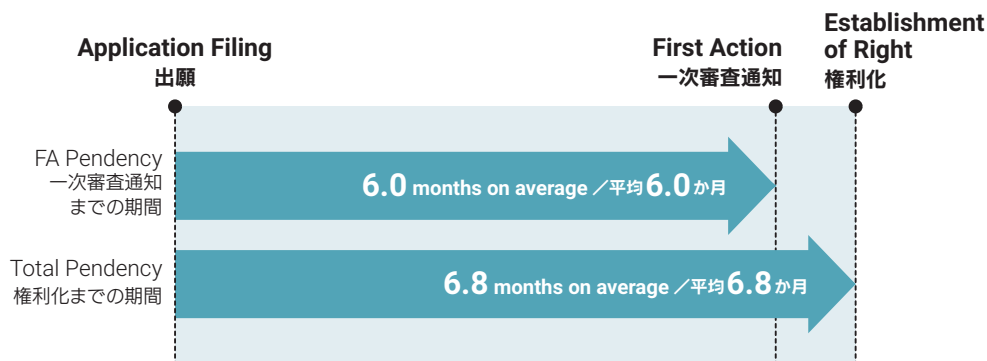
- 早期審査制度の対象は、(i) 権利化について緊急性を要する実施関連の意匠登録出願*1、(ii) 外国にも出願している意匠登録出願、(iii) 震災による被害を受けた企業等の意匠登録出願。
- 2020年は、早期審査の申出から一次審査通知までの期間は平均2.0か月。

*1 Among (i), the JPO is implementing an initiative to commence examinations even earlier for applications where there are counterfeits already in existence and there are no problems in the application procedure. In 2020, the above period was 0.5 months on average.

(i)のうち、実際に模倣品が発生したものであって、出願手続に不備のない出願については、より一層早期に着手する取組を実施しており、2020年の前記期間は平均0.5か月。

Figure 2-1-7 | 2-1-7 図

FA Pendency and Total Pendency for Design Examinations in FY2019
2019年度における意匠審査のFA期間及び権利化までの期間



Note: • The FA pendency is the period from the application filing until the JPO sends the first notice of examination results to the applicant, etc. (excluding international applications filed to register designs under the Hague Agreement, for the most part, either a decision of registration or a notice of reasons for refusal).
• The total pendency is the period from the application filing to a final disposition (excluding international applications filed to register designs under the Hague Agreement, as well as cases in which applicants are required to respond to the second notices from the JPO for amendments submitted by the applicants within a certain period of time).

備考: • FA期間は、出願から審査官による審査結果の最初の通知（国際意匠登録出願を除く。主に登録査定又は拒絶理由通知書）が出願人等へ発送されるまでの期間。
• 権利化までの期間は、出願から最終処分までの期間（国際意匠登録出願を除く。また、出願人が制度上認められている期間を使い補正等を行うことによって、特許庁から再度の応答を求められる場合等を除く。）。

Figure 2-1-8 | 2-1-8 図

Number of FAs and Decisions of Registration for Design Examinations
意匠審査のFA件数及び登録査定件数の推移

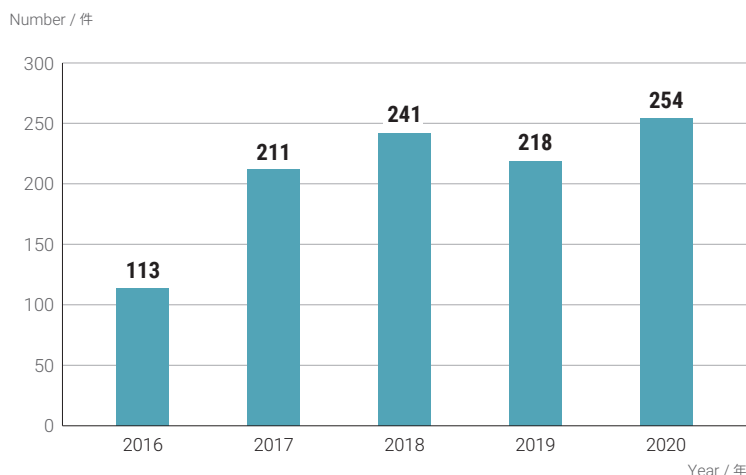
Year / 年	2016	2017	2018	2019	2020
Number of FAs FA件数	30,448	31,600	31,266	31,749	30,164
Number of Decisions of Registration 登録査定件数	26,156	27,976	27,301	27,909	26,465

Note: The number of first actions is the number of first notices of examination results sent by examiners to applicants, etc. (for the most part, either a decision of registration or notices of reasons for refusal).

備考: FA件数は、審査官による審査結果の最初の通知（主に登録査定又は拒絶理由通知書）が出願人等へ発送された件数。

Figure 2-1-9 | 2-1-9 図

Number of Requests for Accelerated Examinations for Design
意匠早期審査の申出件数の推移



Note: The number of requests for accelerated examinations is the number of "Explanation of Circumstances Concerning Accelerated Examination" that were submitted.

備考: 早期審査の申出件数は、「早期審査に関する事情説明書」が提出された案件数。

3) Quality Management Initiatives

Under the “Quality Policy on Design Examination”, which constitutes the JPO’s fundamental principles of quality management, and the “Quality Management Manual for Design Examination” (Quality Management Manual), the JPO has been engaging in the following initiatives in order to realize the utmost quality of design examinations in the world*2.

(i) Quality Assurance

- Before sending applicants and agents documents by examiners regarding notices and decisions, etc., managers of the examination office check substantive and formal aspects of such documents for all cases.
- Examiners consult with managers about cases that meet certain conditions in order to curb search and decision discrepancies among examiners.

(ii) Quality Verification

- Decisions and notices, etc., prepared by examiners are audited by quality management officers to check compliance and validity in terms of content and format before sending official documents to applicants and agents.
- In order to ascertain various user needs, the JPO conducts interviews at informal meetings with businesses, accepts information provided in relation to individual cases, and user satisfaction surveys. [Figure 2-1-10]
- In August 2014, the JPO established the Subcommittee on Examination Quality Management, which consists of external experts, under the Intellectual Property Committee of the Industrial Structure Council of the Ministry of Economy, Trade and Industry, and has been implementing initiatives in the quality management of design examinations, based on reports by this subcommittee.

3) 品質管理に関する取組

品質管理の基本原則となる「意匠審査に関する品質ポリシー」、「意匠審査の品質管理に関するマニュアル」(品質マニュアル)の下、世界最高品質の意匠審査の実現に向けて以下の取組を行っている*2。

(i) 品質保証

- 審査官による通知・査定等に係る書面について、出願人・代理人に発送される前に、審査室の管理職が実体面・形式面にわたり全件チェック。
- 審査官の間のサーチや判断の相違を抑制するため、一定の条件に該当する案件については、審査官は管理職と協議を実施。

(ii) 品質検証

- 審査官による処分等の判断及びその結果として作成される起案書の適否について、品質管理官が起案書発送前に監査を実施。
- 様々なユーザーニーズを把握するため、企業との意見交換会、個別案件に関する意見受付、ユーザー評価調査を実施。[2-1-10図]
- 2014年8月より産業構造審議会知的財産分科会の下に、外部有識者からなる審査品質管理小委員会を設置しており、当該小委員会の報告を踏まえ、意匠の審査の品質管理における取組を実施。

*2



English

<https://www.jpo.go.jp/e/introduction/hinshitu/shinsa/index.html>



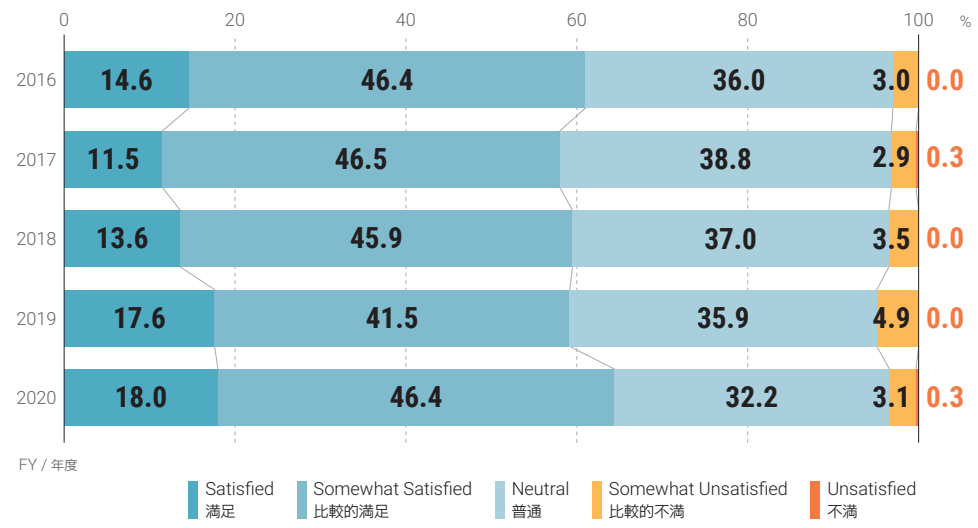
日本語

<https://www.jpo.go.jp/introduction/hinshitu/shinsa/index.html>

Figure 2-1-10 | 2-1-10 図

Results of User Satisfaction Survey on Design Examination Quality

意匠審査の質についてのユーザー評価調査の結果




4) Status concerning the revised Design Act

The revised Design Act of 2019 came into force on April 1, 2020, and revisions including the start of protection of graphical user interface, building, and interior designs and enhancement of the related design system came into effect. Meanwhile, the provisions related to revisions such as the introduction of collective application for multiple designs, elimination of the article classification table, and expansion of remediable procedures are scheduled to come into force on April 1, 2021. The numbers of applications for design registration filed for new categories of subject matter*3 were 699 applications for graphical user interfaces, 304 applications for buildings, and 186 applications for interiors (the total numbers for the period from April through December 2020). In order to offer relevant information on the revision of the Design Act, the JPO launched a "dedicated website on the 2019 revision of the Design Act" (Japanese only) in July 2020, with summarized information on the revision of the Design Act*4.

4) 改正意匠法に関する状況

令和元年改正意匠法が2020年4月1日に施行され、画像や建築物、内装の意匠の保護開始、関連意匠制度の拡充等が実現した。複数意匠一括出願手続の導入、物品区分の扱いの見直し、手続救済規定の拡充については、関連規定の施行を2021年4月1日に予定している。新たな保護対象の意匠登録出願件数*3は、画像：699件、建築物：304件、内装：186件であった（2020年4月から12月の合計件数）。また、意匠法の改正に関する情報発信のため、2020年7月に、意匠法の改正に関する情報を集約した「令和元年意匠法改正特設サイト」を開設した*4。

*3 The numbers of applications for design registration for "graphical user interfaces," "buildings," and "interiors" were obtained based on the following definitions:
 - "Graphical user interface": A classification symbol in the N3 class of the Japanese Classification for Industrial Designs is assigned, and the statement in the column of "Article to the Design" includes a word such as "graphical user interface," "GUI," or "icon."
 - "Building": A classification symbol in any of the L0-0, L2 to L3 (excluding L3-7) classes of the Japanese Classification for Industrial Designs is assigned. However, it excludes applications to which a classification that normally mainly applies to article (L2-52 and L3-2020 classes, etc.) is assigned, or those for which the statement in the column of "Article to the Design" includes the word "prefabricated."
 - "Interior": A classification symbol in the L3-7 class of the Japanese Classification for Industrial Designs is assigned.
 The numbers do not include the numbers of international applications for design registration.
 「画像」、「建築物」、「内装」は、以下定義で取得
 ・「画像」：日本意匠分類 N3 台が付与、かつ、意匠に係る物品欄の記載に「画像」、「GUI」、「アイコン」等を含む。
 ・「建築物」：日本意匠分類 L0-0、L2～3 台(L3-7 を除く)が付与。ただし、通常主として物品を対象とする分類(L2-52 台、L3-2020 等)が付与、又は、意匠に係る物品欄の記載に「組立」を含むものを除く。
 ・「内装」：日本意匠分類 L3-7 が付与。
 なお、国際意匠登録出願の件数は含まない。

*4  日本語
https://www.jpo.go.jp/system/design/gaiyo/seidogaiyo/isyou_kaisei_2019.html

3 Trademarks

The JPO has been implementing various initiatives including accelerated examinations, fast track examinations, quality management, and protection of regional collective trademarks in order to appropriately protect trademarks, and to improve convenience for users.

1) Examination Performance

In order to promptly and appropriately protect trademarks, the JPO is working to make examinations more efficient and reinforce the examination system. In FY2019 (April 2019–March 2020), the JPO achieved the “first action pendency” (FA pendency) and “total pendency” periods shown in Figure 2-1-11. In addition, as Figure 2-1-12 shows, the number of FA in 2020 was 172,931, an increase of approximately 28.3% over the previous year. [Figure 2-1-11][Figure 2-1-12]

2) Accelerated Examination

Under certain conditions, the JPO offers an accelerated examination system that, upon the request of the applicant, expedites the commencement of an examination (for further details, please see “Outline of Accelerated Examinations and Accelerated Appeal Examinations for Trademarks” at the JPO website*1).

- The number of requests for accelerated examinations in 2020 was 11,204, an increase of approx. 38.2% over the previous year. [Figure 2-1-13]
- In 2020, first action pendency from request for accelerated examination was 1.9 months on average.

3 商標

特許庁では、適切な商標の保護やユーザーの利便性向上のため、早期審査、ファストトラック審査、品質管理、地域団体商標の保護等、種々の取組を実施している。


1) 審査実績

商標を迅速かつ適切に保護すべく、審査の効率化・審査体制の強化を進めている。2019年度(2019年4月～2020年3月)は、2-1-11 図の「一次審査通知までの期間」(FA期間)及び「権利化までの期間」であった。また、2020年の「一次審査通知件数」(FA件数)は前年比約28.3%増の172,931件であった。[2-1-11 図][2-1-12 図]

2) 早期審査

一定の要件の下で、出願人からの申出を受け審査を通常よりも早く行う早期審査制度を実施している。(詳細は特許庁HP「商標早期審査・早期審理の概要」を参照*1。)

- 2020年における早期審査の申出件数は、前年比約38.2%増加の11,204件。[2-1-13 図]
- 2020年は、早期審査の申出から一次審査結果の通知までの期間は平均1.9か月。

*1  “Outline of Accelerated Examinations and Accelerated Appeal Examinations for Trademarks”
English
https://www.jpo.go.jp/e/system/trademark/shinsa/outline_accelerated_trademark.html


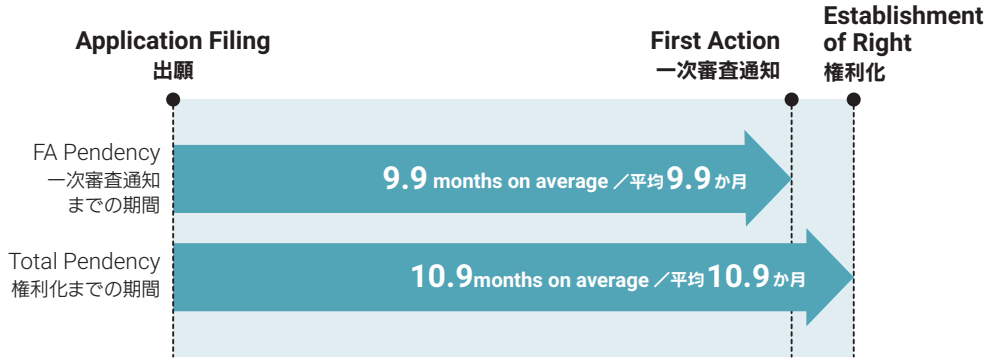
 「商標早期審査・早期審理の概要」
日本語
<https://www.jpo.go.jp/system/trademark/shinsa/soki/shkouhou.html>

Figure 2-1-11 | 2-1-11 図

FA Pendency and Total Pendency for Trademark Examinations in FY2019
2019年度における商標審査のFA期間及び権利化までの期間



Note: • The FA pendency is the period from the application filing until the JPO sends the first notice of examination results to the applicant, etc. (for the most part, either a decision of registration or a notice of reasons for refusal) (excluding applications related to non-traditional trademarks and regional collective trademarks).
• The total pendency is the period from the application filing to the registration (excluding applications related to non-traditional trademarks and regional collective trademarks, as well as cases where the JPO requests an applicant to respond to the second notice of reasons for refusal due to the amendments submitted by the applicant, and where the applicant performs procedures they are allowed to use, such as requests to the JPO for extension of the period of response).

備考: • FA期間は、出願から審査官による審査結果の最初の通知(主に登録査定又は拒絶理由通知書)が出願人等へ発送されるまでの期間(新しいタイプの商標及び地域団体商標に係る出願を除く。)
• 権利化までの期間は、出願から最終処分までの期間(新しいタイプの商標及び地域団体商標に係る出願を除く。また、出願人が補正等を行うことに起因して特許庁から再度の応答等を出願人に求めるような場合や、特許庁に応答期間の延長を求める場合等を除く。)

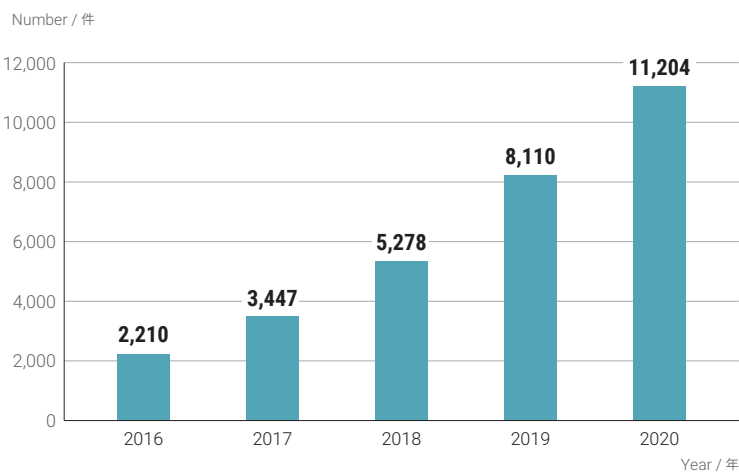
Figure 2-1-12 | 2-1-12 図

Number of FAs and Decisions of Registration for Trademark Examinations
商標審査のFA件数及び登録査定件数の推移

Year / 年	2016	2017	2018	2019	2020
Number of FAs FA件数	131,624	126,407	137,463	134,834	172,931
Number of Decisions of Registration 登録査定件数	113,025	115,754	119,610	117,186	146,708

Figure 2-1-13 | 2-1-13 図

Number of Requests for Accelerated Examinations for Trademark
商標早期審査の申出件数の推移



Note: The number of requests for accelerated examinations is the number of applications for which "Explanation of Circumstances Concerning Accelerated Examination" that were submitted.

備考: 早期審査の申出件数は、「早期審査に関する事情説明書」が提出された出願の件数。

3) Fast Track Examination

In an effort to accelerate the processing of overall examinations by increasing the number of applications that impose little burden on the examination on goods or services, while responding to the needs for early registration, the JPO carries out "Fast Track Examination"*2 pilot programs. For an application that satisfies the following requirements, the first action is issued about six months from the filing of the application. Applications subject to the fast track examination are automatically selected by the JPO, so no special application procedure or fees are required for this examination.

[Condition 1] Applications that only designated goods or services listed in any of the following at the time of filing.

- ① Examination guidelines for similar goods and services
- ② Regulation for Enforcement of the Trademark Act
- ③ International Classification of Goods and Services (the Nice Classification)

[Condition 2] Applications that no amendment of the designated goods or designated services has been made until the commencement of the examination.


3) ファストトラック審査

早期の権利化ニーズに応えつつ、商品・役務の審査にかかる負担の少ない出願を増やすことで審査全体の処理促進を図るべく、「ファストトラック審査」*2の試行を実施している。次の要件を満たした出願については、出願から6か月程度で一次審査結果が通知される。同審査の対象となる案件は特許庁で機械的に抽出を行うため、同審査に関する申請手続及び手数料は不要。

〔要件1〕出願時に、次のいずれかに掲載されている商品・役務のみを指定している出願

- ① 類似商品・役務審査基準
- ② 商標法施行規則の別表
- ③ 商品・サービス国際分類表

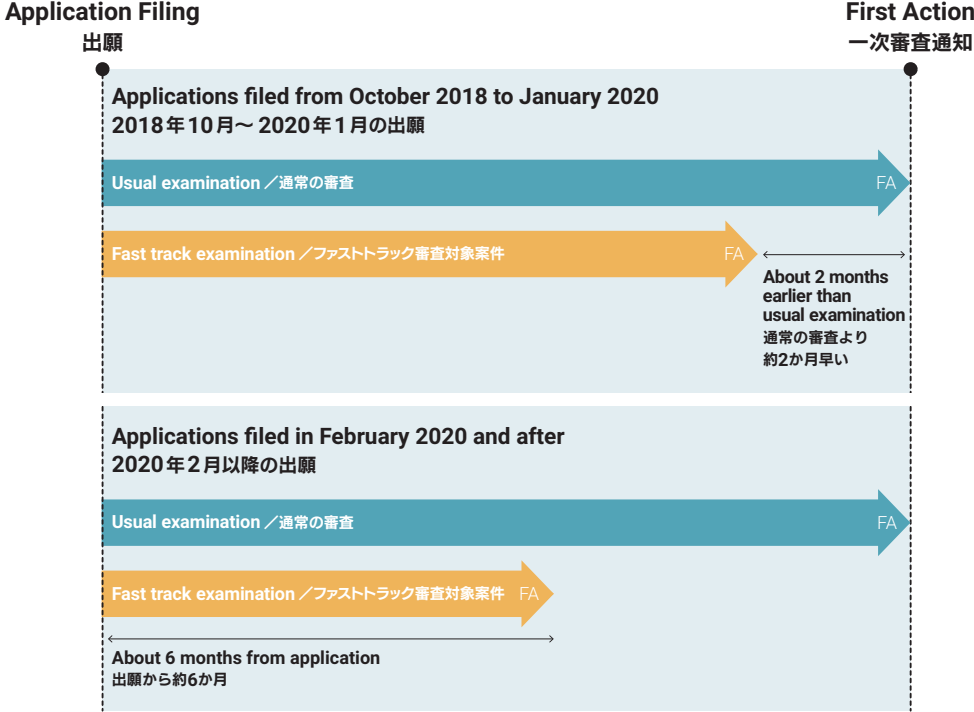
〔要件2〕審査着手時まで指定商品・指定役務の補正を行っていない出願

*2  "Fast Track Examination"
English
https://www.jpo.go.jp/e/system/trademark/shinsa/shohyo_fast_e.html

 「ファストトラック審査」
日本語
https://www.jpo.go.jp/system/trademark/shinsa/fast/shohyo_fast.html

Figure 2-1-14 | 2-1-14 図

Envisaged Pendency for
Fast Track Examination
ファストトラック審査の審査期間
のイメージ



Note: Since October 1, 2018, the JPO has carried out pilot programs for conducting examinations about two months earlier than usual for eligible cases. For applications filed in February 2020 and after, the JPO has changed to conducting examinations in about six months from the filing of an application.

備考: 2018年10月1日以降、対象案件について通常より約2か月早く審査を行う運用を試行してきたが、2020年2月の出願からは、出願から約6か月で審査を行う運用に変更。

4) Quality Management Initiatives

Under the “Quality Policy on Trademark Examination”, which constitutes the JPO’s fundamental principles of quality management, and the “Quality Management Manual for Trademark Examination” (Quality Management Manual), the JPO has been engaging in the following initiatives in order to maintain and improve the quality of trademark examinations. Moreover, in March 2020, the JPO established quantitative goals for the quality of trademark examinations to be achieved in FY2020.*3 For more details, please visit the JPO website.*4

(i) Quality Assurance

- Before sending applicants and agents documents by examiners regarding notices and decisions, etc., managers of the examination office check substantive and formal aspects of such documents for all cases.
- Examiners consult with other examiners in order to share knowledge and to make prompt and appropriate decisions.

(ii) Quality Verification

- Decisions and notices, etc., prepared by examiners are audited by quality management officers to check compliance in terms of content and format before sending relevant official documents to applicants and agents.
- In order to ascertain various user needs, the JPO conducts interviews at informal meetings with businesses, accepts information provided in relation to individual cases, and implements user satisfaction surveys. [Figure 2-1-15]
- In August 2014, the JPO established the Subcommittee on Examination Quality Management, which consists of external experts, under the Intellectual Property Committee of the Industrial Structure Council of the Ministry of Economy, Trade and Industry, and has been implementing initiatives in the quality management of trademark examinations, based on reports by this subcommittee.

4) 品質管理に関する取組

品質管理の基本原則となる「商標審査に関する品質ポリシー」、「商標審査の品質管理に関するマニュアル」(品質マニュアル)の下、商標審査の質の維持・向上を図るため、以下の取組を行っている。また、2020年3月には、2020年度に達成すべき、商標審査の質に関する定量目標を設定した*3。更なる詳細については、特許庁ウェブサイト*4を参照されたい。

(i) 品質保証

- 審査官による通知・査定等に係る書面について、出願人・代理人に発送される前に、審査室の管理職が実体面・形式面にわたり全件チェック。
- 審査官の知見を共有し、迅速・的確な判断を行うため、審査官の間で協議を実施。

(ii) 品質検証

- 審査官による処分等の判断及びその結果として作成される起案書の適否について、品質管理官が起案書発送前に監査を実施。
- 様々なユーザーニーズを把握するため、企業との意見交換会、個別案件に関する意見受付、ユーザー評価調査を実施。[2-1-15図]
- 2014年8月から産業構造審議会知的財産分科会の下に、外部有識者からなる審査品質管理小委員会を設置しており、当該小委員会の報告を踏まえ、商標審査の品質管理における取組を実施。

*3



日本語

https://www.meti.go.jp/policy/policy_management/jissityou-hyouka/2020/R2mokuhyouhonbun.pdf

*4



English

<https://www.jpo.go.jp/e/introduction/hinshitu/shinsa/index.html>



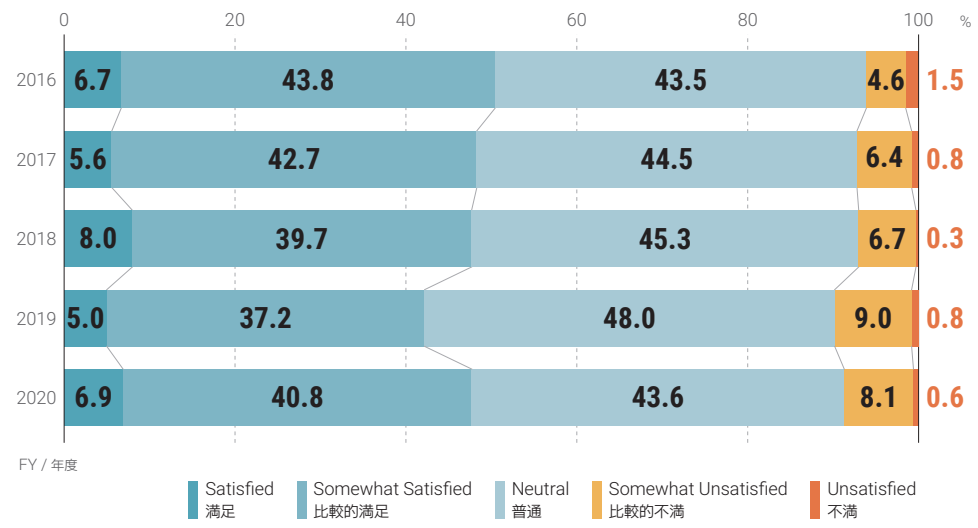
日本語

<https://www.jpo.go.jp/introduction/hinshitu/shinsa/index.html>

Figure 2-1-15 | 2-1-15 図

Results of User Satisfaction Survey on Quality of Trademark Examinations

商標審査の質についてのユーザー評価調査の結果



5) Revision of Examination Guidelines for Trademarks

(i) FY2019 Revision of the Examination Guidelines for Trademarks

In FY2019, from the viewpoint of improving user convenience and clarifying the scope of the right, the JPO revised the method of making statements in the application when filing an application for a three-dimensional trademark (revision of the Regulation for Enforcement of the Trademark Act) so as to enable companies to protect the shapes of outer appearances and interiors of stores and complicated shapes of goods more appropriately. On such basis, the JPO revised the parts of the Examination Guidelines for Trademarks concerning Articles 3, 4, 5, and so on of the Trademark Act in relation to three-dimensional trademarks.*5

(ii) Outline of the Revision

- Examples of three-dimensional trademarks of outer appearances and interiors of stores were added (main paragraph of Article 3(1) of the Trademark Act).
- With regard to examination on the distinctiveness of a three-dimensional trademark comprised of the shape of goods, etc., the determination standards described in the Trademark Examination Manual were additionally described in the Examination Guidelines. In addition, in the part stating that a three-dimensional trademark designating a service of the construction industry, real estate industry, etc. and simply indicating the shape of the building in a common manner without surpassing it in scope is judged to lack distinctiveness, it was additionally stated that the shape of the "interior" is included in such shape of the building (Article 3(1)(iii) of the Trademark Act).
A statement concerning a three-dimensional trademark consisting of the shape of a store, etc., which does not fall under Article 3(1)(iii) of the Trademark Act, was also revised in the same manner as for item (iii) above (Article 3(1)(vi) of the Trademark Act).
- It was additionally described that, when determining the identity of a trademark as applied and a trademark as used, the parts that do not constitute the trademark should not be taken into consideration (Article 3(2) of the Trademark Act).


5) 商標審査基準の改訂

(i) 2019年度商標審査基準の改訂

2019年度は、ユーザーの利便性向上及び権利範囲の明確化の観点から、企業が店舗の外観・内装や複雑な物品の形状をより適切に保護することができるよう、立体商標を出願する際の願書への記載方法についての見直しを行い（商標法施行規則の改正）、それを踏まえて商標審査基準において立体商標に関する商標法第3条、第4条及び第5条等の改訂を行った*5。

(ii) 改訂の概要

- 店舗の外観・内装に係る立体商標の事例を追加（商標法第3条第1項柱書）。
- 商品等の形状からなる立体商標の識別力の審査について、商標審査便覧に記載されている判断基準を追記。また、建築、不動産業等を指定役務とする場合に、立体商標の形状が建築物の形状そのものの範囲を出ないと認識されるにすぎないときは識別力を有しないと判断について、「内装」の形状を含むことを追記（商標法第3条第1項第3号）。商標法第3条第1項第3号に該当しない店舗等の形状からなる立体商標についても、上記3号と同様の趣旨から修正（商標法第3条第1項第6号）。
- 出願商標と使用商標との同一性判断において、商標を構成しない部分を考慮しないことを追記（商標法第3条第2項）。

*5  "Examination Guidelines for Trademarks"
English
<https://www.jpo.go.jp/e/system/laws/rule/guideline/trademark/kijun/index.html>

 「商標審査基準」
日本語
<https://www.jpo.go.jp/system/laws/rule/guideline/trademark/kijun/index.html>

- It was additionally described that, when determining similarity, the trademark is to be examined as a whole while excluding parts that do not constitute the trademark, among other matters (Article 4(1)(xi) of the Trademark Act).
 - It was additionally described that, if the shape of the "interior" of a building or the shape of a store, etc. that does not fall under the category of a building is well known at the time of the filing of the application as the shape of that of another person, the shape is judged to cause confusion over the source (Article 4(1)(xv) of the Trademark Act).
 - The idea of specifying a three-dimensional trademark based on the statement in the detailed description of the trademark was reviewed to also correspond to the new types of trademarks, and examples concerning the outer appearances and interiors of stores were added (Article 5(5) of the Trademark Act).
 - Descriptions concerning the change of gist were revised to also correspond to the new types of trademarks (Article 16-2 of the Trademark Act).
- 類否判断において、商標を構成しない部分を除いて、商標全体として考察すること等を追記（商標法第4条第1項第11号）。
 - 出願時に著名となっている、他人の建築物の「内装」の形状及び建築物に該当しない店舗等の形状は、出所の混同を生じるものと判断することを追記（商標法第4条第1項第15号）。
 - 商標の詳細な説明の記載による立体商標の特定の考え方について、新しいタイプの商標に準じて整理し、店舗の外観・内装に係る事例を追加（商標法第5条第5項）。
 - 要旨変更について、新しいタイプの商標に準じて整理（商標法第16条の2）。

6) Regional Collective Trademarks

The regional collective trademark system was introduced in April 2006 in order to more appropriately protect, as trademarks, regional brands that combine the name of a region and the name of the goods (or services) (for further details about this system, please see the "Regional Collective Trademark System" at the JPO website*6).

Prior to the introduction of this system, trademarks comprised of "region name + goods (services) name" were not approved for registration unless they already possessed nationwide recognition. However, with this system, such trademarks can be now registered as long as there is recognition by consumers to a certain extent.


- As of the end of December 2020, there were 1,277 applications filed, and of those 699*7 were registered.
- In order to further increase awareness of this system, the "General Election for Outstanding Regional Brands" was held in the Kyushu region in FY2017, in the Tokai-Hokuriku region in FY2018, and in the Tohoku region in FY2019. In FY2020, the "Nationwide General Election for Outstanding Regional Brands" was held online, targeting regional collective trademark right holders nationwide. In the General Election program, local university students, local technical college students, local high school students, regional collective trademark right holders, and others form teams, and based on interviews with such right holders, the students circulate information on the attractiveness of regional brands on Instagram® and present future business plans (By creating opportunities for student-organization collaboration to promote the attractiveness of regional brands, this program is expected to increase the system's use among general consumers and organizations considering acquisition of regional collective trademarks, and also further promote the use of regional collective trademarks. Furthermore, through the use of regional collective trademarks, the program is expected to lead to sustainable vitalization of regional economies.).


6) 地域団体商標

地域団体商標制度とは、地域名と商品（サービス）名を組み合わせた地域ブランドを、商標権としてより適切に保護するために、2006年4月に導入された制度（制度の詳細については、特許庁HP「地域ブランドの保護は、地域団体商標制度で」を参照*6.）。

「地域名＋商品（サービス）名」で構成される商標は、制度導入前は全国的な知名度がなければ登録が認められなかったが、制度導入後は一定範囲の需要者に認識されていれば登録可能となった。

- 2020年12月までに1,277件が出願され、そのうち699*7件が登録。
- 本制度のさらなる周知を目的として、地元の学生と地域団体商標の権利者等がチームを組み、地元の学生が地域団体商標の権利者等への取材を通じて得た地域ブランドの魅力等を「Instagram®（インスタグラム）」で発信し、今後のビジネス展開等についても発表する「地域ブランド総選挙」を2017年度の九州地域、2018年度の東海・北陸地域、2019年度の東北地域に続き、2020年度は、全国の地域団体商標を対象とした「全国地域ブランド総選挙」をオンラインで開催（学生と団体とのコラボレーションにより地域ブランドの魅力をもっとPRする機会を創出することで、一般消費者及び地域団体商標の取得を検討している団体への制度普及、並びに、地域団体商標の更なる活用促進を図るとともに、地域団体商標の活用を通じた地域経済の持続的な活性化に繋がることを期待される。）。

*6  "Regional Collective Trademark System"
English
<https://www.jpo.go.jp/e/system/trademark/gaiyo/chidan/index.html>

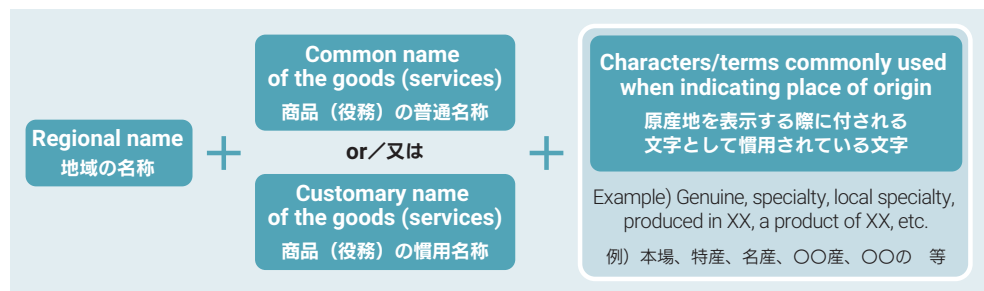
 「地域団体商標制度」
日本語
<https://www.jpo.go.jp/system/trademark/gaiyo/chidan/index.html>

*7 Registration numbers by region are 35 for Hokkaido, 56 for the Tohoku region, 106 for the Kanto-Koshinetsu region, 65 for the Hokuriku region, 94 for the Tokai region, 154 for the Kinki region, 51 for the Chugoku region, 29 for the Shikoku region, 90 for the Kyushu region, and 18 for Okinawa region, along with 3 for overseas countries (registrations spanning multiple regions are counted as one in each region).
登録件数を地域別に見ると、北海道35件、東北56件、関東・甲信越106件、北陸65件、東海94件、近畿154件、中国51件、四国29件、九州90件、沖縄18件に加えて、外国からの出願も3件登録されている（複数地域に跨るものはそれぞれカウント）。

- As a measure to further disseminate the regional collective trademark system and to widely spread case examples of utilization of the system, the JPO published the booklet "Regional Collective Trademark Guide Book," which introduces the latest case examples of leading associations taking advantage of the system as "10 success stories of regional brands," and covers topics including "what regional branding is," "the significance and the method of creating regional brands," "the method of registering trademarks as regional collective trademarks," and "support measures such as consultation services for the filing of regional collective trademark applications and subsidies for foreign applications." The Guide Book is distributed to various parties, including seminar participants, prefectures, municipalities, societies of commerce and industry, chambers of commerce and industry, tourist associations and existing right holders, for promoting widespread use of the system.
- 地域団体商標制度の更なる普及と活用事例の横展開を促すため、地域団体商標を活用している団体の最新事例を「地域ブランド10の成功物語」として紹介するとともに、「地域ブランド化とは何か」、「地域ブランドの意義と作り方」、「地域団体商標としての権利化の方法」、「地域団体商標の出願相談や外国出願補助金などの支援施策」等を掲載した冊子「地域団体商標ガイドブック」を作成し、説明会等の参加者や、各都道府県、市区町村、商工会・商工会議所、観光協会、既権利者等に配布し、対外的に広く普及活動を実施。

Figure 2-1-16 | 2-1-16 図

Regional Collective Trademark Composition 地域団体商標の構成



4 Trials and Appeals

Trials and Appeals play a role in reviewing examiner's decisions as the upper instance of examination, and in achieving early resolution of disputes over the validity of IP rights. To fulfill the role adequately, various initiatives have been taken to ensure reliability and timeliness of trial/appeal decisions.

1) Performance of Trials and Appeals

The status of the proceedings in 2020 is as shown in Figure 2-1-17. [Figure 2-1-17]

- Inter-partes trial cases are prioritized over ex-parte appeal cases in principle for early dispute resolution.
- The JPO gives priority to and conducts accelerated appeal proceedings for appeal against an examiner's decision of refusal cases upon request when the cases satisfy the specific requirements. In 2020, the number of requests for accelerated appeal proceedings*1 was 167 for patents, 0 for designs, and 20 for trademarks. The average pendency period*2 was 3.9 months for patents and 2.5 months for trademarks.

4 審判

審判は、審査の上級審として審査官がした査定を見直す役割や、産業財産権の有効性をめぐる紛争の早期解決を図る役割を担っている。これらの役割を十分に果たすため、信頼性の高い審決及び審決の適時性の確保の実現に向けた種々の取組を実施している。

1) 審判実績

2020年の審理の状況は、2-1-17図のとおりである。[2-1-17図]

- 当事者系審判事件については、紛争の早期解決を図るため、原則として査定系の審判事件より優先的に着手。
- 拒絶査定不服審判事件について、特定の要件を満たす場合、申出により審理を優先的に行う早期審理を実施。2020年における早期審理の申出件数*1は特許で167件、商標で20件であり、意匠については対象案件がなかった。審理期間*2は特許で平均3.9か月、商標で平均2.5か月。

*1 The number of cases where the "Written Explanation of Circumstances Concerning Accelerated Appeal Proceedings" was submitted and the cases were transferred to the board in charge. When the cases that were not transferred to the board in charge (including cases that involve decision to grant a patent upon reconsideration by examiner before appeal proceedings) are included, the number of requests for accelerated appeal proceedings made in 2020 was 269 for patents, 2 for designs, and 23 for trademarks.

「早期審理に関する事情説明書」が提出され部門移管された件数。部門移管されなかった件数(前置登録された事件等)を含めると、2020年における早期審理の申出件数は、特許が269件、意匠が2件、商標が23件。

*2 In the cases that are subject to accelerated appeal proceedings, the average pendency is an average Calendar Year (CY) period from the date it becomes ready to conduct proceedings, after a request for accelerated appeal proceedings, to the date an appeal decision is dispatched. 早期審理の対象となった事件について、早期審理の申出がなされ審理可能となってから審決が発送されるまでの期間の暦年平均。

Figure 2-1-17 | 2-1-17 図

Status of Proceedings in 2020
2020年 審理の状況

	Appeals against an examiner's decision of refusal 拒絶査定不服審判		Invalidation trials 無効審判		Trials for correction 訂正審判		Oppositions 異議申立		Trials for rescission 取消審判	
	Number of dispositions*1 処理件数*1	Pendency*2 審理期間*2	Number of dispositions*1 処理件数*1	Pendency*2 審理期間*2	Number of dispositions*1 処理件数*1	Pendency*2 審理期間*2	Number of dispositions*1 処理件数*1	Pendency*2 審理期間*2	Number of dispositions*1 処理件数*1	Pendency*2 審理期間*2
Patents & Utility Models*3 特許・実用新案*3	8,282	12.2	115	12.5	97	3.0	1,014	7.4	-	-
Designs 意匠	411	7.3	8	12.7	-	-	-	-	-	-
Trademarks 商標	818	9.5	112	13.7	-	-	414	8.6	985	8.8

Note: 1. The total number of requests granted (including requests partly granted), requests not granted (including dismissals), and withdrawals/abandonments. The number of oppositions is counted by opposed patent.
 2. Average processing period (in months) in CY from the date a request is filed (*1), to the date a trial/appeal decision is dispatched (*2), to the date a withdrawal or abandonment is finalized and concluded, or to the date a dismissal is dispatched.
 (*1) The date a request is filed for opposition is the date an opposition is requested. The date for cases concerning "reconsiderations by examiners as one of appeal proceedings" in "appeal against examiner's decision of refusal" is the date it becomes ready to conduct proceedings (the date the case has been transferred to the board in charge).
 (*2) In patent opposition cases, if a "notification of reasons for revocation" (advance notice of a decision) is to be made, it is the date the notice is dispatched. In trial for patent invalidation cases, if an "advance notice of a trial decision" is to be made, it is the date the notice is dispatched.
 3. Trial for invalidation statistics include invalidation trials for utility models.

備考: 1 請求成立 (含一部成立)、請求不成立 (含却下)、及び取下げ・放棄の件数の合計。異議申立は権利単位の件数。
 2 審判請求日 (※1) から、審決 (又は決定) の発送日 (※2)、取下げ・放棄の確定日、又は却下の発送日までの期間の暦年平均。単位は箇月。
 (※1) 異議申立については異議申立日。特許拒絶査定不服審判において前置審査に係る事件については審理可能となった日 (部門移管日)。
 (※2) 特許異議申立において取消理由通知 (決定の予告) を行うものはその発送日、特許無効審判において審決の予告を行うものはその発送日。
 3 無効審判の統計のみ実用新案を含む件数。

2) Improvement of Proceedings

The JPO is implementing the following initiatives in order to further improve proceedings:

(i) Oral Proceedings

- In inter-partes trial cases (including trials for invalidation and trials for rescission), oral proceedings, where the panel and the parties orally assert against each other, are proactively utilized in order to accurately grasp and sort out the points of dispute and to increase the parties' acceptance of the results. In 2020, 37 oral proceedings were conducted. From April onward, online oral inquiries were utilized, as it was difficult to hold oral proceedings due to the COVID-19 outbreak.

(ii) Circuit Trials and On-Site Interviews

- When companies, universities, etc. in the local regions are the parties concerned in trial and appeal cases, the panel may visit their regions at their request to conduct circuit trials (oral proceedings conducted for trials for invalidation) or on-site interviews (interviews aimed at facilitating communication on trial and appeal proceedings). In 2020, 4 circuit trials and 5 on-site interviews were conducted. From April onward, online interviews were utilized, as it was difficult to make visits due to the COVID-19 outbreak.

(iii) Trial and Appeal Practitioner Study Group

- The "Trial and Appeal Practitioner Study Group," which gathers together practitioners such as corporate IP personnel, patent attorneys and lawyers, in addition to JPO chief administrative judges and administrative judges, and which studies trial/appeal decisions and court decisions based on actual cases, is convened every year. The Study Group's meeting was held online in 2020. The Study Group publishes a report*3 that summarizes the results of its studies. Judges of the Intellectual Property High Court and the Tokyo District Court also participate as observers. In 2020, the Study Group studied a total of 12 cases: 8 patent cases, 2 design cases, and 2 trademark cases.

2) 審理の充実

審理を一層充実させるため、以下の取組を実施している。

(i) 口頭審理

- 無効審判や取消審判等の当事者系審判事件においては、的確な争点の把握・整理や当事者の納得感の向上のため、合議体と当事者双方が口頭で主張しあう口頭審理を積極的に活用。2020年は、37件の口頭審理を実施。4月以降は、新型コロナウイルス感染症の影響で口頭審理の開催が困難であったため、オンライン口頭審尋を活用。

(ii) 巡回審判・出張面接

- 地方の企業・大学等が審判事件の当事者である場合には、当事者の希望に応じて合議体が全国各地に赴き、巡回審判（無効審判の口頭審理）や、出張面接（審理に関して意思疎通を図るための面接）を実施。2020年においては、4件の巡回審判、5件の出張面接を実施。4月以降は、新型コロナウイルス感染症の影響で出張が困難な状況であったため、オンライン面接を活用。

(iii) 審判実務者研究会

- 審判長・審判官に加えて、企業の知的財産部員、弁理士、弁護士等の実務者が一堂に会して、実例に基づき審決及び判決についての研究を行う「審判実務者研究会」を例年開催。本年度はオンライン会議の形式で実施。その結果を取りまとめた報告書*3を公表。知的財産高等裁判所及び東京地方裁判所の裁判官もオブザーバー参加。2020年は、特許8事例、意匠2事例、商標2事例の計12事例を検討。

*3  English
https://www.jpo.go.jp/e/resources/shingikai/kenkyukai/sinposei_kentoukai.html

 日本語
https://www.jpo.go.jp/resources/shingikai/kenkyukai/sinposei_kentoukai.html

3) Dissemination and Awareness Raising of the Trial and Appeal System

The JPO is implementing the following initiatives in order to disseminate and raise awareness of the trial and appeal system:

(i) English Translations of Trial/Appeal Decisions

- In order to further disseminate information on trials and appeals of the JPO internationally, the JPO has been providing a manually-translated English edition of trial/appeal decisions, decisions on opposition, and Hantei (advisory opinions on the technical scope of industrial property rights), at the JPO's website*4, that would help users with the understanding of the law interpretation and its practices in Japan. In 2020, the JPO provided English translations for 97 trial/appeal decisions.

(ii) Mock Oral Proceedings

- The JPO distributes a video recording of mock oral proceedings online in order to enhance oral proceedings, to further promote the use of circuit trials and to disseminate and raise awareness of the trial/appeal system.



Trial Court where oral proceedings are actually conducted
実際に口頭審理が実施される特許庁審判廷

3) 審判制度の普及啓発

審判制度の普及啓発のために、以下の取組を実施している。

(i) 審決英訳

- 審判に関する情報の国際発信を充実させるため、法解釈や運用の理解の参考となる審決、異議決定、判定の英訳を人手翻訳により作成し、特許庁ウェブサイト*4に掲載。2020年は、97件の審決英訳を提供。

(ii) 模擬口頭審理

- 口頭審理の充実、巡回審判の一層の利用促進、及び、審判制度の普及・啓発を図るため、模擬口頭審理の録画を配信。

*4



English
https://www.jpo.go.jp/e/system/trial_appeal/info-general-shinketsu-eiyaku.html



日本語
https://www.jpo.go.jp/system/trial_appeal/info-shinketsu-eiyaku.html